



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2012-0027]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated March 2, 2012, the Heber Valley Railroad (HVRP) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR. FRA assigned the petition Docket Number FRA-2012-0027.

Specifically, HVRP seeks a waiver of compliance for 15 freight cars, from 49 CFR Section 215.303, which requires stenciling on restricted freight cars; and 49 CFR Part 224, Reflectorization of Rail Freight Rolling Stock. HVRP also requested a Special Approval to continue in service of the same cars in accordance with 49 CFR Section 215.203(c). The ages of these cars are more than 50 years from their original construction dates, and therefore, are restricted per 49 CFR Section 215.203(a); unless HVRP receives a Special Approval from FRA.

HVRP stated that it is a nonprofit independent agency of the State of Utah doing business as the Heber Valley Railroad. This railroad was a former Denver and Rio Grande Western branch line. The trains operate on 16 miles of Class I and Class II track between Heber City and Vivian Park, UT, at no more than 25 mph. This line is a

noninsular tourist railroad that is not connected to the general system. HVRR exercises complete control of the operation and maintenance of the freight cars, which are the subject of this waiver petition.

HVRR attached to the petition letter an Exhibit A, which lists the subject cars' types, reporting marks, construction, designs, type components, and other items causing the restriction of some of the cars.

HVRR stated that the main reason for the maintenance and operation of these historic cars is their status and attraction as operating historic artifacts. There would be few other uses worth the expense and effort that HVRR has put into the maintenance and upkeep of these cars. Each car is lettered and painted according to its appearance on its road of origin approximately 60 years ago, or in a scheme representing one of the railroads that would have originally purchased that type of car. HVRR further stated that stenciling the cars and adding reflectorization in order to meet the requirements of 49 CFR Section 215.303 and Part 224 would violate the historic impression that the car is maintained to preserve.

The HVRR petition letter also mentioned that these freight cars have been inspected by HVRR shop personnel and have been deemed safe for service. These restricted cars are limited in their service by speed, lading, and territory. HVRR's track is not connected to the general system. The subject cars will be operated at speeds not exceeding 25 mph, with light tonnage loading, if any. These cars will never be subject to regular railroad interchange operations.

HVRR believes that the restricted cars will always be operated in a context that ensures that each car and its sensibilities are readily accessible and known both to HVRR,

as operator; and to FRA, as enforcer of 49 CFR Part 215. In making this request, HVRR understands that a permanent roster of restricted cars shall be maintained for the benefit of the railroad and FRA at all times.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue, S.E., W12-140, Washington, D.C. 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: 202-493-2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., W12-140, Washington, D.C. 20590.
- Hand Delivery: 1200 New Jersey Avenue, S.E., Room W12-140, Washington, D.C. 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by [INSERT DATE 45 DAYS FROM PUBLICATION OF THIS NOTICE] will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78), or online at <http://www.dot.gov/privacy.html>.

Issued in Washington, DC, on May 30, 2012.

Ron Hynes
Acting Deputy Associate Administrator
for Regulatory and Legislative Operations

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